IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO. 4739 OF 2004
IN
CRIMINAL APPEAL NO. 1061 OF 2004

Shrinath Ramnaresh Pande .. Applicant
V/s.
The State of Maharashtra ..Respondent.

Shri A.P. Mundargi with Shri Indrajeet Joshi for the applicant.

Smt. V.R. Bhosale, A.P.P. for the Respondent/State.

CORAM : S.B. MHASE &
ANOOP V.MOHTA, JJ.

DATE : 13TH DECEMBER, 2004.

P.C.

. Heard Mr. A.P. Mundargi for the applicant and Smt. V.R. Bhosale for the State. According to the prosecution, the deceased Munni Jain was murdered by this applicant and six others. Said Munni was a sister of accused Nos. 3 and 5. Accused No.1 is absconding The trial is completed in his absence. The other accused have been acquitted. The applicant/original accused No.2 is held guilty. There are no other eye witnesses. It is a case of circumstantial evidence, since the dead body of Munni was found in the jungle. Only incriminating circumstance as against the present applicant- accused No.2 is that this accused/applicant

was having 9 injuries on his person and the blood stains of the blood group of the accused are found on the clothes of said Munni, as is reflected from para 21 of the Judgment. Except this, there is no material prima facie, what we find is that this material is insufficient to convict the accused. The prosecution has not brought on record the material to show that this accused had any specific motive and for his shared motive the rest of the accused acquitted being a friend and hired for the said purpose. In absence of clinching circumstances, prima facie, it will be difficult and more so when the main persons i.e. the brothers have been acquitted in the case. We are therefore, inclined to suspend the sentence and grant bail to the accused. We therefore, pass the following order.

. The order of sentence passed in Sessions Case No.718 of 1996 by the Ist Adhoc Additional Sessions Judge, Palghar, District Thane is hereby suspended till the final disposal of this appeal.

. The accused No.2, the present applicant is hereby released on bail on his executing P.R.bond of Rs. 15,000/- with the like surety. The accused/applicant

shall not change the address and shall remain available. He shall report to the police station Virar, once in a week, till final disposal of this appeal. He shall not have any contact with the absconding accused.

. Parties concerned to act on a simple copy of this order, duly authenticated by the Registry of this Court.

[ANOOP V. MOHTA, J.] **[S.B.MHASE, J.]**